IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5702 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ASHWINKUMAR M MEHTA

Versus

GUJARAT STATE MACHINE TOOLS CORPN LTD

Appearance:

MR MD RANA for Petitioner

MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/09/2000

ORAL JUDGEMENT

#. Having heard the learned counsel for the parties, this writ petition deserves to be dismissed on three grounds leaving apart the question whether the respondent No.1 is a `State' within the meaning of Article 12 of the Constitution of India or not.

#. The petitioner admittedly resigned from services of the respondent on 8th October, 1986. He is claiming the amount of salary and encashment of balance leave for the period earlier to the date of his resignation. This petition has been filed in the year 1990, i.e. after more than four years. It suffers from the vice of delay and laches. Secondly, the respondent disputed this claim of the petitioner. It being a disputed question of fact, cannot be gone into under Article 226 of the Constitution of India. Thirdly, the remedy of suit for recovery of this amount was there to the petitioner but within the period of limitation prescribed, same has not been filed by him and there is all the possibility that to overcome this limitation of the suit, this writ petition has been filed.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, earlier granted, stands vacated. No order as to costs.

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(sunil)